

S/N 10/810,098

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	KUNSCHIR	Examiner:	A. Bunin
Serial No.:	10/810,098	Group Art Unit:	3743
Filed:	March 26, 2004	Docket No.:	12684.0009USW1
		Confirmation No.:	8190
Title:	DEVICE FOR INHALATION THERAPY		

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**AMENDMENT UNDER 37 C.F.R. 1.116**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the final Office Action mailed October 25, 2005, please amend the above-identified application as follows:

**Amendments to the Claims** are reflected in the listing of claims that begins on page 2 of this paper.

**Remarks** begin on page 4 of this paper.

**Amendments to the Claims:**

This listing of claims will replace all prior versions and listings of claims in the application.

**Listing of Claims:**

1. (canceled)
2. (currently amended) Device for inhalation therapy according to claim [[1]] 15, wherein the further control signal is supplied to the oscillation generating device via the same connecting means as the oscillation control signal.
3. (currently amended) Device for inhalation therapy according to claim [[1]] 15, wherein the oscillation generating device comprises an electromechanical transducer unit, in particular a piezoelectric element.
4. (previously presented) Device for inhalation therapy according to claim 2, wherein the oscillation generating device comprises a support unit to which the electromechanical transducer unit and the membrane are attached.
5. (currently amended) Device for inhalation therapy according to claim [[1]] 15, wherein a generator unit is provided that generates the further control signal which is supplied to the oscillation generating device via the at least one connecting means.
6. (previously presented) Device for inhalation therapy according to claim 4, wherein the generator unit is integrated in the control means.
7. (currently amended) Device for inhalation therapy claim [[1]] 15, wherein an energy supply means for the inhalation device is integrated in the control means.

8-14. (canceled)

15. (new) Device for inhalation therapy, comprising:
- a. an oscillatable membrane for nebulising a liquid,
  - b. an oscillation generating device having at least one connecting means,
  - c. a control means, from which an oscillation control signal is supplied to the at least one connecting means of the oscillation generating device so that said oscillation generating device oscillates the membrane,
  - d. the at least one connecting means receiving the oscillation control signal for oscillating said membrane when the oscillation control signal is received such that a liquid disposed on one side of said membrane is nebulised through the membrane and is present on the other side of said membrane as an aerosol, and

wherein

said control means supplies a further control signal to the oscillation generating device, such that said oscillation generating device oscillates the membrane in the audible frequency range so as to emit an audible signal for a user.

### **Remarks**

In this paper, claim 1 is canceled and replaced with new claim 15; claims 2, 3, 5 and 7 are amended to be consistent with claim 1 being canceled. Claims 2-7 and 15 are pending. Reconsideration of the claims, as amended, is requested.

### **Claim Rejections**

Claims 1-7 were rejected under 35 U.S.C. 112, first paragraph. Applicant disagrees, and contends that the claimed subject matter is described in the specification and that Applicant had possession of the claimed invention at the time the application was filed.

The Office Action contends that the change to 'the connecting means supplying the oscillation signal' from 'the connecting means receiving the oscillation signal' is new matter. Applicant disagrees. Having the connecting means supply the oscillation signal to the oscillation generating device is supported by the originally filed claim 1.

The originally filed claim 1 read as follows:

1. Device for inhalation therapy
  - a. comprising an oscillatable membrane (1) for nebulising a liquid (3).
  - b. comprising an oscillation generating device (6,7) having at least one connecting means (8,9) for supplying an oscillation control signal and by means of which said membrane (1) is caused to oscillate when the oscillation control signal is supplied such that a liquid disposed on one side of said membrane is nebulised through membrane and is present on the other side of said membrane as an aerosol, and
  - c. comprising a control (10), from which an oscillation control signal can be supplied to the at least one connecting means (8,9) of the oscillation generating device (6,7) so that said oscillation generating device (6,7) causes the membrane (1) to oscillate, characterized in that said control means (10) is designed such that a further control signal of the control means (10) can be supplied to the oscillation generating device (6,7), said further signal causing the membrane (1) to oscillate in the audible frequency range so as to emit an audible signal for a user.

In the Preliminary Amendment filed March 26, 2004, claim 1 was amended as follows to conform the claim to U.S. practice.

1. Device for inhalation therapy, comprising:
- a. ~~comprising~~ an oscillatable membrane (1) for nebulising a liquid (3),
  - b. ~~comprising~~ an oscillation generating device (6,7) having at least one connecting means (8,9) for supplying an oscillation control signal and by means of which said membrane (1) is caused to oscillate when the oscillation control signal is supplied such that a liquid disposed on one side of said membrane is nebulised through the membrane and is present on the other side of said membrane as an aerosol, and
  - c. ~~comprising~~ a control means (10), from which an oscillation control signal can be supplied to the at least one connecting means (8,9) of the oscillation generating device (6,7) so that said oscillation generating device (6,7) causes the membrane (1) to oscillate,
- ~~characterized in that wherein~~  
said control means (10) is designed such that a further control signal of the control means (10) can be supplied to the oscillation generating device (6,7), said further signal causing the membrane (1) to oscillate in the audible frequency range so as to emit an audible signal for a user.

When the phrases from the claim of March 26, 2004 are rearranged to be similar to the order of the currently presented claim, the following is obtained (designated as "claim A").

- A. Device for inhalation therapy, comprising:
- a. an oscillatable membrane for nebulising a liquid,
  - b. an oscillation generating device having at least one connecting means ~~for supplying an oscillation control signal and by means of which said membrane is caused to oscillate when the oscillation control signal is supplied such that a liquid disposed on one side of said membrane is nebulised through the membrane and is present on the other side of said membrane as an aerosol, and~~
  - c. a control means, from which an oscillation control signal can be supplied to the at least one connecting means of the oscillation generating device so that said oscillation generating device causes the membrane to oscillate,
  - d. ~~an oscillation generating device having at least one connecting means for supplying an oscillation control signal and by means of which said membrane is caused to oscillate when the oscillation control signal is supplied such that a liquid disposed on one side of said membrane is nebulised through the membrane and is present on the other side of said membrane as an aerosol,~~
- wherein  
said control means is designed such that a further control signal of the control means can be supplied to the oscillation generating device, said further signal causing the membrane to oscillate in the audible frequency range so as to emit an audible signal for a user.

As can be readily seen, in order to maintain continuity throughout the claim, specifically to be consistent with subsection "c" which states "a control means, from which an oscillation control signal can be supplied to the at least one connecting means", the original subsection "b" phrase, now split and rewritten above as subsections "b" and "d", should be amended so that the connecting means supplies the signal received from the control means to the oscillation means. Once the signal is received from the control means by the connecting means, the connecting means sends the signal to connected equipment, i.e., the oscillation means.

In the Amendment dated August 11, 2005, claim 1 was amended in such a manner to maintain the continuity and also to clean-up some language. Claim 1 of August 11, 2005 is presented below, with edits for the 'cleaned-up' language removed, but leaving the function change rejected by the Office Action of October 25, 2005.

1. Device for inhalation therapy, comprising:
  - a. an oscillatable membrane for nebulising a liquid,
  - b. an oscillation generating device having at least one connecting means for ~~supplying~~ receiving an oscillation control signal for oscillating said membrane when the oscillation control signal is ~~supplied~~ received such that a liquid disposed on one side of said membrane is nebulised through the membrane and is present on the other side of said membrane as an aerosol, and
  - c. a control means, from which the oscillation control signal is supplied to the at least one connecting means of the oscillation generating device so that said oscillation generating device oscillates the membrane,

wherein  
said control means supplies a further control signal to the oscillation generating device, such that said oscillation generating device oscillates the membrane in the audible frequency range so as to emit an audible signal for a user.

Applicant contends that the amendments made August 11, 2005 are completely supported by the originally filed claims, as has been outlined above.

In this paper, claim 1 has been canceled and replaced with a new claim 15 that is arranged similar to claim A above. Applicant contends that claim 15 is supported by the originally filed claim 1.

**SUMMARY**

In consideration of the above amendments and remarks, Applicants respectfully request a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,  
MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
(612) 332-5300

Dated: January 10, 2006

By Mara E. DeBoe  
Mara E. DeBoe  
Reg. No. 40,066

